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IN THE
COURT OF APPEALS OF INDIANA

JONATHAN E. HADT,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A04-0701-CV-36
	)	
SHARON GOODALL,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE CIRCUIT COURT
The Honorable Lorenzo Arredondo, Judge
The Honorable Christina J. Miller, Magistrate
Cause No. 45C01-0204-CT-77

August 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Jonathan E. Hadt appeals the trial court's award of attorney's fees and costs as a sanction for his refusal to increase his settlement offer. We reverse.

Issue

Hadt raises a single issue on appeal: whether the trial court abused its discretion in ordering him and his non-party insurer to pay the attorney's fees and costs of other persons participating in a settlement conference.

Facts and Procedural History

Hadt's automobile slid into a delivery truck driven by Sharon Goodall. She sued Hadt for her damages. After some time, she filed a Request for Judicial Settlement Conference ("Request"). Lake Circuit Court Judge Lorenzo Arredondo issued an Order to File Objections, requiring any objections to the Request to be filed within fourteen days. Having received no objections, Judge Arredondo granted Goodall's Request and ordered two people to appear "for a half day Judicial Settlement Conference": Goodall and "an adjuster, with full settlement authority on behalf of [Hadt]." Appendix at 8. The same day, Judge Arredondo issued an Order regarding Settlement Conference ("Conference Order"), requiring the physical presence of "[a]ll parties, counsel of record, representatives with settlement authority, and other individuals which the parties deem necessary for full resolution of disputed issues." Id. at 9. The Conference Order required the parties to submit a written statement prior to the settlement conference, including the last offer made. In addition, the Conference Order indicated that "failure to have an individual with actual authority to determine the value of this case and settle same will lead to sanctions." Id. at 11.

Contrary to the Conference Order, Goodall did not file a written statement prior to the settlement conference. Hadt did. His Settlement Conference Statement indicated that Goodall was seeking $100,000 and that she had asserted that her lost wages and medical bills amounted to $40,479.41.[1] Hadt indicated that his insurer had concluded that Goodall's estimate was approximately $9000 more than it should be. Finally, Hadt noted that he had "made his maximum offer of $40,000 by certified mail in a Qualified Settlement Offer dated August 12, 2004."[2] Id. at 14.

Attending the settlement conference were Magistrate Christina J. Miller, Goodall, her two attorneys, an attorney for her employer, another representative of her employer, Hadt's attorney, and a claims representative from his insurer. Hadt did not attend, a fact noted on the record only after the parties had apparently reached an impasse. Magistrate Miller stated the following:

> The Court will report that there is no settlement, and quite frankly, there seems to be some misunderstanding about what a settlement conference is about. A settlement conference, judicial settlement conference, mediation, whatever, should be entered into with good faith to negotiate one's position. It should not be to bring four lawyers to the courthouse and indicate in the first five minutes of discussions that you're unwilling to increase your offer at all and that you're unwilling to call for more authority.

Id. at 27. During a dialogue in which Magistrate Miller and Hadt's attorney both indicated that they were making records, Magistrate Miller emphasized that Hadt's settlement offer was not near the limits of his insurance policy. As the conversation continued, Magistrate

[1] Hadt described his insurance policy limits as "100/300." Appendix at 12. Accordingly, it appears that Goodall was claiming precisely the maximum damages that would be covered by Hadt's insurance.

[2] Indiana Code Chapter 34-50-1 addresses Qualified Settlement Offers. See also Indiana Code Section 34-6-2-128 for the definition of the term.

Miller indicated that she was going to calculate sanctions based upon three hours of conference, rather than two.[3] Hadt's attorney stated that Hadt and his insurer were not acting in bad faith, but that the insurer was unwilling to increase its offer without new information. Magistrate Miller instructed, "[s]o quite simply, do not come to a settlement conference unwilling to offer any improvement." Id. at 36. She concluded the hearing by stating, "this kind of systematic resistance to settlement is not acceptable." Id. at 37.

The Lake Circuit Court issued an Order regarding Sanctions and Attorney's Fees, requiring "Hadt and/or [his insurer]" to pay Goodall, her attorney, her employer's attorney, and her employer's representative a total of $2294.76 in attorney's fees and costs. Id. at 17, 18. Magistrate Miller recommended and approved the Order, and Judge Arredondo signed the Order two days later.

Hadt now brings an interlocutory appeal.[4]

Discussion and Decision

On appeal, Hadt argues that the trial court abused its discretion in sanctioning him for contempt.[5]

> In general, contempt of court involves [activity] which undermines the court's authority, justice, and dignity. But the authority of a court to sanction a party for contempt is not a matter of legislative grace. Rather, among the inherent powers of a court is that of maintaining its dignity, securing obedience

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[3] The Order regarding Sanctions and Attorney's Fees, however, did not reflect such a revision.

[4] Appeals from orders for the payment of money may be made as a matter of right. Ind. Appellate Rule 14(A)(1).

[5] Goodall did not file an appellee's brief. Accordingly, we may reverse the trial court's decision if the appellant demonstrates a prima facie case of reversible error. This fact, however, does not alter our obligation to decide the law as applied to the facts to determine whether reversal is required. Garner v. Kovalak, 817 N.E.2d 311, 313 (Ind. Ct. App. 2004).

> to its process and rules, rebuking interference with the conduct of business, and punishing unseemly behavior.

City of Gary v. Major, 822 N.E.2d 165, 169 (Ind. 2005) (internal citations omitted). To be held in contempt, a party must have willfully disobeyed an unambiguous court order. Id. at 170. The trial court has discretion to determine whether a party is in contempt of court. Id. at 171. We reverse such a finding only if there is no evidence or inference therefrom to support it. Id.

This Court has held repeatedly that an unwillingness to make or modify a settlement offer does not warrant sanctions. Consol. Rail Corp. v. Estate of Martin, 720 N.E.2d 1261, 1265 (Ind. Ct. App. 1999) (reversing trial court order of sanctions because "the finding was based on how much was, or rather, was not offered at the settlement conference"); and State v. Carter, 658 N.E.2d 618, 623 (Ind. Ct. App. 1995) (concluding "a reasonable disagreement over the merits of a case should not prompt an award of sanctions against either party."). A court cannot mandate a particular amount of settlement. Consol. Rail, 720 N.E.2d at 1265. "Other than persuasion, the court is without authority to order a party to appear at a settlement conference with more money, a larger offer, or for that matter, any offer at all." Id. (citing Carter, 658 N.E.2d). Magistrate Miller told the parties not to come to a settlement conference unwilling to improve their offers. That said, Magistrate Miller was without authority to extract an "improved" offer.

Additionally, while the trust of the court's ire arose from Hadt's unwillingness to increase his offer, the court also found Hadt's failure to appear was a basis to support sanctions against him. Granted, Hadt did not attend the conference; but it was unclear that

attendance was required. The trial court's two orders, issued on the same day, were inconsistent in naming the persons required to attend. Ambiguous orders do not support sanctions. See City of Gary, 822 N.E.2d at 170. Furthermore, as Magistrate Miller noted, the offer of $40,000 was not near the insurance limits. Accordingly, it was highly unlikely that Hadt would need to be consulted during the negotiation. See Smith v. Archer, 812 N.E.2d 218, 220-21 (Ind. Ct. App. 2004) (sanctions for failure to attend reversed where the policy limits were sufficiently higher than plaintiff's claim such that the negotiation was effectively left to Smith's insurer).

Finally, if Hadt's absence had been the basis for the decision, Magistrate Miller should have immediately noted it on the record, rather than after learning that the parties had reached an impasse. The trial court abused its discretion in sanctioning Hadt.

Reversed.

BAKER, C.J., and VAIDIK, J., concur.